

**REMARKS**

Claims 228-235, 244-271 and 274-292 are pending in this application. By this Amendment, claims 230 and 246 are amended and claims 282-292 are added. Claims 230 and 246 are amended for form. Support for new claims 282-292 can be found at least in Figures 11A-11D, 17, 18 and 18A and the corresponding description in the specification, for example, page 14, line 11 - page 18, line 4. No new matter is added.

The courtesies extended to Applicant's representative by Examiner Beisner at the interview held September 28, 2009, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below, which constitute Applicants' record of the interview.

**I. The Claims Define Patentable Subject Matter**

Claims 228, 230-233, 235 and 274-278 are rejected under 35 U.S.C. §103(a) over European Patent No. 0 376 763 to McKelvey et al. (hereinafter "McKelvey") in view of Bacchi; claims 229 and 234 are rejected under 35 U.S.C. §103(a) over McKelvey in view of Bacchi and further in view of WO 96/29865 to Fahy et al. (hereinafter "Fahy I"); claims 244, 246-253, 255, 256, 258-263, 265 and 276-279 are rejected under 35 U.S.C. §103(a) over McKelvey in view of Bacchi and further in view of U.S. Patent No. 5,586,438 (hereinafter "Fahy II") and U.S. Patent No. 6,238,908 to Armstrong et al. (hereinafter "Armstrong"); claims 245 and 257 are rejected under 35 U.S.C. §103(a) over McKelvey in view of Bacchi, Fahy II and Armstrong, and further in view of Fahy I; claims 254 and 271 are rejected under 35 U.S.C. §103(a) over McKelvey in view of Bacchi, Fahy II and Armstrong, and further in view of U.S. Patent No. 5,451,524 to Coble et al. (hereinafter "Coble"); and claims 264, 266-270, 280 and 281 are rejected under 35 U.S.C. §103(a) over McKelvey in view of Bacchi, Fahy II and Armstrong, and further in view of U.S. Patent No. 6,300,875 to Schafer. The rejections are respectfully traversed.

As discussed during the personal interview, one of ordinary skill in the art would not have been motivated to use the "transpack" removable organ unit 31 of McKelvey in a box 10 of the container of Bacchi. The portable housings of McKelvey and Bacchi are not similar as alleged in the Office Action. McKelvey discloses that the organ unit 31 is enclosed on all sides but one side, and includes a housing reservoir 10, a venous reservoir 11, a blood pump 12, a heat exchanger 13 and an oxygenator 14. See e.g., McKelvey, col. 5, lines 38-42. The organ unit 31 of McKelvey is structured and shaped to be received by a cabinet 30 as shown in Figure 3. Bacchi discloses a detachable transporting assembly 60 that is formed by a support holder 600 that is structured and shaped to fit within the box 10 of Bacchi. Within this holder, a reservoir bag 61, a collector bag 62, a vessel 63 for transporting organs with a suspension device 64 and a dispensing element 65 are arranged. See e.g., Bacchi, col. 6, lines 3-25 and Fig. 2. The box 10 defines outside service compartments 12 in which a refrigerating unit 20 and a pumping unit 30 are placed. The unit 31 of McKelvey and the assembly 60 of Bacchi thus have completely different structures and configurations. Additionally, the box 10 of Bacchi has a completely different structure than the cabinet 30 of McKelvey. Thus, one could not simply substitute the assembly 60 of Bacchi with the unit 31 of McKelvey for transporting within the box 10 of Bacchi.

The proposed modification would also change the principle of operation of the organ unit 31 of McKelvey. The unit 31 is structured to be removable from and operable with the cabinet 30 of McKelvey. However, the unit 31 of McKelvey is not configured to be received by the box 10. As discussed above, the shape and configuration of the unit 31 of McKelvey are substantially different from the assembly 60 of Bacchi. Also, the unit 31 of McKelvey includes perfusion components found in the box 10 of Bacchi, e.g., a pumping unit. Thus, the organ unit 31 of McKelvey would have to be substantially restructured to be able to be received by and operable within the box 10 of Bacchi. However, by restructuring the organ

unit 31 of McKelvey to fit within and be operable with the box 10 of Bacchi, the unit 31 of McKelvey would no longer be operable with the cabinet 30. Thus, one of ordinary skill in the art would not have modified McKelvey to use the box 10 as disclosed by Bacchi for transportation because it would change the principle of operation of the device of McKelvey.

Fahy I, Fahy II, Armstrong, Coble and Schafer are not applied in a manner to overcome the above-identified shortfalls in the application of McKelvey and Bacchi to the subject matter of the pending claims.

For at least the foregoing reasons, the applied references cannot reasonably be considered to teach, or render obvious, the combinations of features positively recited in independent claims 228 and 233. Additionally, claims 229-232, 234, 235, 244-271 and 274-281 are also neither taught, nor would they have been rendered obvious, by the applied references for at least the respective dependence of these claims, directly or indirectly, on an allowable base claim, as well as for the separately patentable subject matter that each of these claims recites. Withdrawal of the rejections is thus respectfully requested.

Further, new claims 282-292 are also patentable over the applied references. For example, as agreed during the personal interview, none of the applied references teaches or would have rendered obvious the features recited in claims 282 and 284 and thus none of the applied references teaches or would have rendered obvious the features recited in claims 283 and 285 that respectively depend from claims 282 and 284. Also, none of the applied references teaches or would have rendered obvious the features of claims 286-292.

## **II. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachments:

Petition For Extension of Time  
Amendment Transmittal

Date: October 9, 2009

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